UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/1998/1172
15 December 1998

ORIGINAL: ENGLISH

LETTER DATED 15 DECEMBER 1998 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to submit for your consideration reports from the Director General of the International Atomic Energy Agency (IAEA), dated 14 December 1998, and the Executive Director of the United Nations Special Commission (UNSCOM), dated 15 December 1998, concerning their work in Iraq, as called for in the letter to me from the President of the Security Council dated 30 October 1998.

The reports cover the period since 17 November 1998.

The report from IAEA states that Iraq "has provided the necessary level of cooperation to enable the above-enumerated activities to be completed efficiently and effectively".

The report from UNSCOM includes material that relates to issues prior to 17 November 1998. With regard to the period since then, the report presents a mixed picture and concludes that UNSCOM did not enjoy full cooperation from Iraq.

In the light of the findings and conclusions contained in the reports, taken together, the Council may wish to consider three possible options:

1. That the experience over the period since 17 November 1998 does not provide a sufficient basis to move forward with a comprehensive review at this time.

2. That Iraq has not provided full cooperation but that it should be permitted additional time to demonstrate its commitment to do so.

3. That the Council may wish to proceed with a comprehensive review on the premise that it is sufficiently important to know precisely what has been achieved in the area of disarmament over the entire period since 1991.

I stand ready to assist the Council in whatever manner it deems best.

(Signed) Kofi A. ANNAN

Annex I

Letter dated 14 December 1998 from the Director General of the International Atomic Energy Agency addressed to the Secretary-General

Further to your letter of 25 November I wish to report that, since its return to Iraq on 17 November, the IAEA Nuclear Monitoring Group has, to date, carried out the following activities:

28	inspections at previously inspected sites – initially following an intensified programme to restore continuity of knowledge of the status of Iraq's relevant assets
11	inspections at new sites – jointly with UNSCOM, as part of an ongoing intensified programme of inspections at "capable sites", including four repeat inspections
113	visits to locations for the collection of environmental monitoring samples
15	road vehicle based radiation surveys
3	interviews of personnel known to have been formerly employed in key positions within Iraq's clandestine nuclear programme
5	discussion sessions with the Iraqi counterpart to clarify technical matters related to Iraq's clandestine nuclear programme
2	site visits, each of several days duration, to maintain and extensively update IAEA video surveillance systems
1	site visit of several days duration to install and commission a meteorological data collection station in connection with the IAEA wide area environmental monitoring programme.

The Iraqi counterpart has provided the necessary level of co-operation to enable the above-enumerated activities to be completed efficiently and effectively.

In addition, an IAEA team visited Iraq from 9 to 13 December to discuss with the Iraqi counterpart the status of the few remaining questions and concerns related to Iraq's clandestine nuclear programme. During the discussions the Iraqi counterpart expressed its intention to continue to co-operate with the IAEA in the resolution of those matters.

(Signed) Mohamed ELBARADEI

Annex II

Letter dated 15 December 1998 from the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) addressed to the Secretary-General

I refer to the Press Statement by the President of the Security Council (SC/6596) of 15 November 1998, in which the Council noted, on the basis of communications of 14 November 1998 received from the Deputy Prime Minister of Iraq and the Ambassador of Iraq, "that Iraq has decided, clearly and unconditionally, to cooperate fully with the Special Commission and the International Atomic Energy Agency (IAEA), that this decision constitutes a rescinding of the decisions of 5 August and 31 October and that Iraq's cooperation with the Special Commission and the IAEA will allow the return of inspectors to resume all their activities on an immediate, unconditional and unrestricted basis, in accordance with the relevant resolutions and with the Memorandum of Understanding of 23 February 1998."

In the same Statement, "Council members reaffirmed their readiness to proceed with a comprehensive review, once the Secretary-General has confirmed, on the basis of reports from the Special Commission and the IAEA, that Iraq has returned to full cooperation, on the basis of resolution 1194 (1998) and the Council President's letter of 30 October to the Secretary-General."

The present letter provides the report called for from the Special Commission. It is guided, in particular, by the provision in the Press Statement to the effect that: "Council members underlined that their confidence in Iraq's intentions needs to be established by unconditional and sustained cooperation with the Special Commission and the IAEA in exercising the full range of the activities provided for in their mandates in accordance with the relevant resolutions and the Memorandum of Understanding of 23 February 1998."

Before providing an account of the Commission's experience during the past month, I believe it is essential to provide, briefly, some background contextual material which, in addition, provides explanation for the range of activities which the Commission chose to follow since 17 November 1998.

From the inception of the Commission's work in Iraq, in 1991, Iraq's cooperation has been limited. Iraq acknowledges that, in that year, it decided to limit disclosure for the purpose of retaining certain prohibited weapons capabilities. Three main Iraqi policies ensued:

(a) its disclosure statements have never been complete;

(b) contrary to the requirement that destruction of prohibited capabilities be conducted under international supervision, Iraq undertook extensive, unilateral, secret destruction; and

(c) it also pursued a practice of concealment of proscribed items, including weapons.

This situation, created by Iraq, in particular through the inadequacy of its disclosures, has meant that the Commission has been obliged to undertake a kind and degree of forensic work which was never intended to be the case. The work of the verification of Iraq's disclosures should have been far easier and been able to be undertaken far more quickly than has proven to be the case.

In addition, these circumstances have meant that, in spite of the years that have passed and the extensive work that has been undertaken, it has not been possible to verify Iraq's claims with respect to the nature and magnitude of its proscribed weapons programmes and their current disposition.

With respect to this latter point, two comments are apposite.

First, Iraq's current claims that it has fulfilled all of its disarmament obligations in each weapons area; ceased concealment policies and actions; and that it has neither proscribed weapons nor the ability to make them, cannot be accepted without further verification.

Secondly, documents or records available in Iraq in which relevant details of its proscribed programmes and actions are reported: production records; records of disposition of weapons; and, records of claimed destruction, relevant policy decisions and decisions on termination of concealment, would be invaluable in helping to close remaining gaps and achieve acceptable confidence in Iraqi declarations. The Security Council recognised these two aspects in resolution 707 (1991) when it demanded Iraq provide immediate and unconditional access to, inter alia, records, and, demanded that Iraq cease attempts to conceal prohibited materials.

In response to the Commission's requests for relevant documents, Iraq has repeatedly claimed that they no longer exist or cannot be located, a claim which very often has been shown to be false, either because inspection activities have in fact located precisely such documents or because Iraq has reversed its stated position and then produced relevant documents. The Commission briefed the Council on its assessment of the existence and importance of documents in June 1998. The Commission has assessed since the "chicken farm" event of 1995 that only selected categories of documents were provided and that other categories were retained by Iraq. It remains the Commission's strong view that, under the present circumstances, relevant documentation must exist in Iraq and that provision of such documentation is the best hope for revealing the full picture, as required by the relevant resolutions.

On 17 November 1998, the Commission began to resume its work in Iraq across the full range of its activities. Accordingly, that work was focussed on four main areas, pursuant to the Commission's mandate: requests for information through access to documents and interviews of Iraqi personnel; monitoring inspections; inspection of capable sites; and, disarmament inspections relating to proscribed weapons and activities.

The following is a summary of the Commission's experience in each category, from 17 November 1998 to date:

Requests for access to information through documentation and interviews of Iraqi personnel

On a number of occasions, the Security Council has demanded that Iraq allow immediate, unconditional and unrestricted access to documents and records relevant to the Commission's activities. On 17 November 1998, the Commission requested Iraq to provide certain documentation related to the chemical weapons and missile areas. The purpose of this request was to increase the Commission's level of verification in these areas. It comprised a selection of 12 particular sets of documents and a request for access to the relevant archives of Iraq's Ministry of Defense and Military Industrialization Corporation and other Government departments.

Iraq provided documents in response to one of the Commission's requests. It gave some 64 pages related to Missile Unit 223. These pages are currently under translation and examination. A preliminary assessment indicates that they do not contain the information sought by the Commission.

The Commission reiterated its request for the document found by an inspection team at the Headquarters of the Iraqi Air Force in July 1998. The Security Council has asked Iraq to return the document to the Commission. This document details Iraq's consumption of special munitions in the 1980s, and therefore, is directly related to verification of the material balance of Iraq's chemical munitions. Iraq refused to return the sealed envelope with the document to the Commission and stated that it is ready only to "consider" with the Commission's experts the relevant portions of this document in the presence of the Special Representative of the Secretary General.

Iraq stated that the remainder of the requested documents either do not exist, could not be found or are not relevant to Commission's activities.

With respect to archives, Iraq did not respond to the suggestion made by the Commission. It did not deny the existence of the archives, but stated that the Ministry of Defence and Military Industrialization Corporation had been inspected by the Commission. The teams did not find any relevant archives at the above mentioned sites during the inspections.

During the reporting period a biological inspection team requested Iraq's authorities to provide access to a number of specific documents. One document had already been seen by the Commission in 1995. These documents were not given to the inspection team.

On 19 November 1998, Iraq was requested to provide explanations and clarifications on outstanding disarmament issues in the chemical weapons and missile areas. Furthermore, Iraq was requested to allow the removal for analysis of a number of missile engine components produced by Iraq.

In the chemical weapons area, Iraq provided, as requested, a report on its analysis of the samples from the special missile warhead fragments. On the issue of VX, Iraq for the first time claimed that the contamination of the warhead fragments had been the result of a deliberate act of tampering with the samples taken to the United States. Iraq made this statement despite the conclusions drawn by three international expert teams, which confirmed that all analytical results were valid and conclusive.

In the missile area, Iraq provided some clarifications sought by the Commission. On other requests, Iraq, in essence, reiterated its known positions, which did not advance the verification process.

With respect to the Commission's request to allow the removal of missile engine components, Iraq has refused to do so stating that this request is not justified on "technical or scientific grounds".

On 18 November 1998, the Commission requested Iraq to provide new substantial information on its biological weapons activities that would enable the Commission to achieve an enhanced level of verification and to rectify inconsistencies in Iraq's current declarations. No new information or documents have been presented by Iraq in response to this request.

Inspection teams - resident and non-resident - encountered several problems with the questioning of personnel on site. The National Monitoring Directorate (NMD) representatives repeatedly intervened when a biological team attempted to question PhD and MSc students stating that UNSCOM was not allowed to interview students at university sites even though declarable research has taken place at such sites. NMD routinely interrupted and prompted site personnel when answering questions.

Monitoring inspections

In statistical terms, the majority of the inspections of facilities and sites under the ongoing monitoring system were carried out with Iraq's cooperation. Problems arose which indicated that the limitations Iraq had imposed on the monitoring system, on 5 August 1998, have not been fully rescinded. Specific instances are given below.

During the reporting period, the Commission requested, on several occasions, access to specific data collected by Iraq during its tests of indigenously produced missiles and rocket engines. Prior to 5 August 1998, Iraq had provided such data. In response to the Commission's recent requests, Iraq stated that it is meeting its obligations with respect to the provision of data on its testing activity and denied access to the particular information requested by the Commission. In relation to the Commission's most recent requests, on 6 December, Iraq stated it would reconsider its decision. It has not yet provided the data requested.

During a chemical monitoring inspection on 5 December, the National Monitoring Directorate (NMD) representatives placed unacceptable conditions on the photography of bombs, citing national security concerns. No photographs were taken.

During the reporting period, undeclared dual-capable items and materials subject to chemical and biological monitoring, were also discovered.

On 11 December the chemical monitoring group was told by the NMD representative that they would not be able to conduct an inspection at a specific monitoring site on that day because it was a Friday. The inspection group was not able to inspect the inside of the site. This incident underlined the position stated earlier that Iraq would facilitate entry to buildings "during the working days of the work, except Fridays".

Inspections of capable sites

Identification of the nature of activities at locations where undeclared dual-use capabilities may exist is an important aspect of monitoring activity. During the reporting period, teams conducted no-notice inspections at a number of sites that had not been declared by Iraq. Access to these sites was provided and inspections took place with one exception which was at a facility occupied by the People's Mojahedin Organization of Iran (PMOI). The site of this facility was declared as being not under the authority of Iraq. Discussions over access were left to the Commission and that organization. A dialogue has begun on this matter and the PMOI has accepted, in principle, that its sites are subject to access by the Commission.

Disarmament inspections

During the recent period, a series of inspections were conducted which served both the purpose of searching for material related to prohibited programmes and investigation of possible ongoing prohibited activities. The team conducting these missions went to six locations. At the first two sites, (Taji military facility and a special security organization cable office), Iraq declared the sites to be sensitive, but offered no objections nor claimed any conditions on access.

The next site, designated for inspection on the basis of solid evidence presented to UNSCOM of the presence of proscribed materials, was declared by Iraq to be a Ba'ath Party Headquarters. Iraq initially declared it to be sensitive and therefore subject to special procedures issued by the former Executive Chairman, Ambassador Ekeus, to his inspectors in 1996. The Chief Inspector was instructed to conduct his inspections according to the requirements he assessed he needed for a credible and timely inspection. Experience since 1996 had proven that the limited access procedures of 1996 did not allow effective inspections. Subsequent discussions between the Executive Chairman and the Deputy Prime Minister had addressed this point (as reported to the Security Council in a letter dated 17 December 1997 (S/1997/987)) and new modalities had been agreed. Protracted discussions between the Chief Inspector and his Iraqi counterpart failed to yield satisfactory access. During the discussions, Iraq had introduced various new requirements, including a formal letter of request, indicating what was being sought at the site.

At a fourth site, while Iraq declared it to be sensitive, arrangements were ultimately agreed for the inspection. Iraq stated that this had been the former Headquarters of the Special Security Organization, claiming that it had now been moved to a new location. The building had been emptied of any relevant materials. Iraq would not disclose where those materials were now held.

A fifth site appeared to be a private residence and, with the permission of the residents, two female Inspectors made a brief walk through to confirm the nature of the site.

The final site, the management offices of the Military Industrialization Corporation (MIC), was also declared sensitive by Iraq. However, agreement on access by a small team was achieved. This site, too, had been prepared to avoid any disclosure of relevant materials and the team assessed Iraq had expected their arrival.

In light of the clear evidence that Iraq had taken advance actions at certain of the locations planned for inspection in order to defeat the purposes of inspection, the Executive Chairman decided not to conduct the full range of inspections the team had planned. No inspection of presidential sites took place.

National Implementation Measures

Both the Special Commission's and the IAEA's Plans for ongoing monitoring and verification, which were approved by Security Council resolution 715 (1991), provide that Iraq shall adopt the measures necessary to implement its obligations under section C of resolution 687 (1991), resolution 707 (1991) and the Plans. In particular, Iraq is required to adopt legislation prohibiting all natural and legal persons under its jurisdiction from undertaking anywhere any activity prohibited by the relevant resolutions and the Plans, and to enact penal legislation to enforce the aforesaid prohibitions. Such legislation was required by the Plans to have been enacted within 30 days of their adoption by the Security Council on 11 October 1991. To date, the legislation has not been enacted.

This is an issue on which Iraq's cooperation has been sought since 1991. It would have been an indication of full cooperation had Iraq taken action on this issue in the period under review.

Conclusion

As is evident from this report, Iraq did not provide the full cooperation it promised on 14 November 1998.

In addition, during the period under review, Iraq initiated new forms of restrictions upon the Commission's work. Amongst the Commission's many concerns about this retrograde step is what such further restrictions might mean for the effectiveness of long-term monitoring activities.

In spite of the opportunity presented by the circumstances of the last month, including the prospect of a comprehensive review, Iraq's conduct ensured that no progress was able to be made in either the fields of disarmament or accounting for its prohibited weapons programmes.

Finally, in the light of this experience, that is, the absence of full cooperation by Iraq, it must regrettably be recorded again that the Commission is not able to conduct the substantive disarmament work mandated to it by the Security Council and, thus, to give the Council the assurances it requires with respect to Iraq's prohibited weapons programmes.

(Signed) Richard BUTLER